REMARKS

1.   The Applicant thanks the Examiner for his findings and conclusions.

5   2.   It should be appreciated that Applicant has elected to amend Claims 1, 7, 12, 35, and 36 solely for the purpose of expediting the patent process in a manner consistent with the PTO's Patent Business Goals, 65 Fed. Reg. 54603 (9/8/00). In making such amendments, Applicant has not and does not in any way narrow the scope of protection to which the Applicant considers the invention herein entitled. Rather, Applicant reserves Applicant's right to pursue such protection at a later point in time and merely seeks to pursue protection for the subject matter presented in this submission.

Hilton Davis / Festo Statement

The amendments herein to Claims 1, 35, and 36 were not made for any reason related to patentability. Claims 1 and 36 were amended to clarify the invention. All of the above listed amendments were made for reasons other than patentability.

3.   The Applicant cancels Claims 14-19 and 29-34 from the application.

4.   Claim 36 stands rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement.

Particularly, the Examiner states that (1) the feature "MMX" is not defined within the specification and (2) MMX is not known to those skilled in the art as a physical property of a computer. As to the second point, the Applicant amends Claim 36 to use the descendent language of "property information", thereby clarifying that the property information includes any of the computer's speed,

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manufacturer, model, MMX, and cache. Support for the amendment is found at least within the antecedent usage of the clause "property information" within Claim 35. As to the first point, the Applicant notes that the specification teaches MMX at least at page 48, lines 10-12 reading: "For example, an object of type

5   CPU may have a collection of properties[,] such as speed, manufacture, model, MMX, and cache". Still further, those skilled in the art will immediately recognize that MMX is an instruction set designed by Intel, introduced in 1997 in their Pentium line of processors. The instruction set is a standardized set of instructions used by computer programmers to instruct the MMX processor.

10   Further, those skilled in the art refer to MMX as standing for *MultiMedia eXtension*, *Multiple Math eXtension*, or *Matrix Math eXtension*. Accordingly, the current rejection of Claim 36 under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement is deemed to be overcome.

15   5.   Claim 1 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicant regards as the invention.

       Particularly, the Examiner indicates that Claim 1 refers to "physical devices" and

20   that the operating system version, operating system property, and registry are not physical devices within a computer. The Examiner requires appropriate correction. The Applicant amends Claim 1 to clarify by using proper descendent language stating that <u>said property information</u> includes any of the computer's: storage device; operating system version; operating system property; RAM;

25   ROM; and registry. Support for the amendment is found within the antecedent usage of the clause "property information" within Claim 1. Accordingly, the current rejection of Claim 1 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicant regards as the invention is deemed to be overcome.

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6. Claim 36 stands rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicant regards as the invention.

5   Particularly, the Examiner states that "it is not clear as to what a computer's MMX is". As described, *supra*, those skilled in the art will immediately recognize that MMX is an instruction set designed by Intel, introduced in 1997 in their Pentium line of processors. The instruction set is a standardized set of instructions used by computer programmers to instruct the MMX processor. Further, those skilled
10 in the art refer to MMX as standing for *MultiMedia eXtension*, *Multiple Math eXtension*, or *Matrix Math eXtension*. As MMX is well known as an instruction set on Pentium processors, the current rejection of Claim 36 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter that the Applicant regards as the invention is
15 deemed to be improper.

7. Claims 1, 5, 7, 9-12, 20-28, and 35-37 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. patent no. 6,029,258 (hereinafter "Ahmad") in view of U.S. patent no. 6,418,445 (hereinafter "Moerbeek").

20

Claims 1 and 35

As to Claim 1, the Applicant respectfully disagrees. Claim 1 contains the required claim element of: "wherein said advise reader operates in the absence of consumer involvement". The Examiner cites Ahmad in three locations as
25 teaching this claim requirement. The Applicant addresses each of the three points individually herein.

a. The Examiner cites Ahmad at column, 2, line 4-8: Apparently, the Examiner relies on the column 2, lines 6-8 statement of: "The Trouble Shooting

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Program generates offset values to locate problem solutions". However lines 1-6 of the cited paragraph, which immediately precede the cited line, teach away from the claim requirement. Particularly, column 2, lines 1-8 read, emphasis added:

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> The Character Interface allows the user to select from a menu of problems or the user may type into the Character Interface a natural language string to identify the problem. Generally described, the Trouble Shooting Program generates offset values corresponding to the problem identified by the user. The Trouble Shooting Program generates offset values to locate problem solutions.

10 Here, Ahmad teaches the user doing all of selecting, typing, and identifying. Certainly, Ahmad in this cited section does not teach or describe an advise reader operating in the absence of consumer involvement. Hence, the specification language of Ahmad teaches away from the required language of Claim 1, which requires that the advise reader operates in the absence of
15 consumer involvement. Prior art must be considered in its entirety, including disclosures that teach away from the claims, MPEP 2141.02 and W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F. 2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984).

20   b.   The Examiner further cites a second section of Ahmad at column 13, lines 9-12. The cited section reads, emphasis added:

> Alternatively, and as briefly discussed above, the TSP 110 may automate part of the above described process by obtaining information directly from the software program 120 without input from the user.

25 The rest of the cited paragraph of Ahmad relates to determining paper orientation in a print job automatically. The preceding paragraph clarifies that the TSP 110 only automates the paper orientation determination after "the user responds affirmatively that the paper orientation is incorrect". Thus, the second cited section of Ahmad is taken out of context. As cited above MPEP 2141.02 and
30 W.L. Gore & Associates, Inc. v. Garlock, Inc., 721 F. 2d 1540, 220 USPQ 303 (Fed. Cir. 1983), cert. denied, 469 U.S. 851 (1984) requires that the prior art

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must be considered in its entirety, including disclosures that teach away from the claims. Still further, the entire clause of Claim 1 reads, emphasis added: "wherein said <u>advise reader</u> operates in the absence of consumer involvement". Respectfully, the automated determination of paper orientation has nothing to do

5   with the required <u>advise reader</u>, which is fully described in Claim 1.

　

c.   The Examiner further cites a third section of Ahmad at column 5, lines 20-43 and column 13, lines 40-55. The first section merely teaches a computer system and programming modules. The second section teaches user

10   involvement. Specifically, within the cited section Ahmad at column 13, lines 43-44 teaches the TSP <u>directing the user to additional tools</u>; at column 13, line 47 teaches allowing <u>the user to access a remote printer</u>; and column 13, lines 48-49 teaches the TSP asking <u>the user to use a printer setup tool</u>.

　

15   Thus, the three sections cited by the Examiner repeatedly teach user involvement and fail to tie any automated feature of Ahmad to the advise reader. The Applicant cannot understand how the cited sections of Ahmad teach the Claim 1 requirement of "wherein said <u>advise reader</u> <u>operates in the absence of</u> <u>consumer involvement</u>". Claim 35 contains the identical claim requirement. If

20   the Examiner maintains the rejection of Claims 1 and 35, the Examiner is specifically requested to explain in detail how Ahmad teach the addressed required claim element. Without more, the current rejection of Claims 1 and 35 and all claims dependent therefrom under 35 U.S.C. § 103(a) as being unpatentable over Ahmad in view of Moerbeek is deemed to be improper.

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<u>Claim 1</u>

The Applicant amends Claim 1 to further distinguish Claim 1 from the cited art and to further clarify the invention by further requiring that the property information from the physical device communicatively coupled to the consumer's

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computer comprises both a remote control and a smart TV and any of the computer's: storage device; operating system version; operating system property; RAM; ROM; and registry. Support for the amendment is found in the application as filed at least in the first paragraph of the Detailed Description of the

5   Invention section at page 9, lines 9-14. Neither Ahmad not Moerbeek disclose use of an inspector using an inspector library inspecting a remote control and a smart TV communicatively coupled to the consumer's computer. Accordingly, the current rejection of Claim 1 and all claims dependent therefrom under 35 U.S.C. § 103(a) as being unpatentable over Ahmad in view of Moerbeek is

10   deemed to be overcome.

The Applicant further amends the preamble to use proper definite language and thereby providing proper antecedent basis for descendent language according to standard claim drafting practices.

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Claim 7

The Applicant amends Claim 7 to overcome the cited art and to further clarify the invention by further requiring that the code is written in an extensible and non-procedural language using no function calls with variable arguments. Support for

20   the amendment is found in the application as filed at least within the Extensible Language section beginning on page 58; within the Non-Procedural Language section beginning on page 58 and continuing on page 59; and at page 59, line 22-23 reading: "non function calls, or at least no explicit function calls with variable arguments". Neither Ahmad not Moerbeek disclose use of inspector

25   library using code written in an extensible and non-procedural language using no function calls with variable arguments. Accordingly, the current rejection of Claim 7 and all claims dependent therefrom under 35 U.S.C. § 103(a) as being unpatentable over Ahmad in view of Moerbeek is deemed to be overcome.

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Claim 12

The Applicant amends Claim 12 to overcome the cited art and to further clarify the invention by: (1) amending the preamble to provide a population of information consumers and an individual advice consumer having a computer;

5   (2) amending the body to clarify that the system comprises:

computational devices connected by a communications network;

a communications apparatus linking an information provider to the population of information consumers, said communications apparatus comprising:

10   millions of units of advice to be shared;

digital documents conveying said advice;

an advice provider broadcasting said millions of units of advice to the population of information consumers in the form of advisories,

wherein advisories are broadcast over said communications
15   network from said advice provider;

an inspector automatically matching a relevant specific unit of advise from said millions of units of advice for the advice consumer;

a communications protocol for narrowly-focused targeting of said specific unit of advice to the advice consumer;

20   and (3) to clarify that the executable code is written in an extensible and non-procedural language using no function calls with variable arguments. Support for the amendment is found in the application as filed at least within the original preamble of Claim 12; within the Extensible Language section beginning on page 58; within the Non-Procedural Language section beginning on page 58 and
25   continuing on page 59; and at page 59, line 22-23 reading: "non function calls, or at least no explicit function calls with variable arguments"; at page 1, lines 29-31; page 2, lines 5-7; and page 3, lines 27-31. Ahmad and Moerbeek do not combine to teach all of the limitations added to Claim 12. Accordingly, the

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current rejection of Claim 12 and all claims dependent therefrom under 35 U.S.C. § 103(a) as being unpatentable over Ahmad in view of Moerbeek is deemed to be overcome.

5   Claim 35

The Applicant amends Claim 35 to further distinguish Claim 35 from the cited art and to further clarify the invention by further requiring that (1) the inspector queries at least one peripheral attached to the consumer's computer to determine environment state about the consumer's computer, where the

10   environmental state includes both thermal and acoustic results and (2) communicating an advisory to the consumer's computer based on the automated advise reader, the environmental state, and the contents of storage devices. Further, the Applicant amends the first wherein clause to require that the inspector performs all of (1) mathematico-logical calculations,(2) executes

15   computational algorithms, (3) returns the results of system calls, (4) accesses the contents of storage devices, and (5) queries devices or remote computers. Support for the amendment is found in the application as filed at least page 11, lines 7-11 reading:

20
Environmental attributes. These are, for example, attributes which can be determined after querying attached peripherals to learn the state of the environment in which the computer is located. Attributes may include results of thermal, acoustic, geographic positioning ...

Further support is found in the application as filed at least at page 9, lines 28-29 reading, emphasis in the original:

25
The special digital documents conveying advice are referred to as advisories.

The Applicant further clarifies Claim 35 by using standard paragraph formatting according to standard claim drafting practices. Neither Ahmad nor Moerbeek teach an inspector gleaning property information from a consumer's computer and communicating an advisory to the consumer's computer based on the

30   automated advise reader, the environmental state, and the contents of storage

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devices. Accordingly, the current rejection of Claim 35 and all claims dependent therefrom under 35 U.S.C. § 103(a) as being unpatentable over Ahmad in view of Moerbeek is deemed to be overcome.

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CONCLUSION

In view of the above, the Application is deemed to be in allowable condition. The Examiner is therefore earnestly requested to withdraw all outstanding rejections, allowing the Application to pass to issue as a United States Patent. Should the

10   Examiner have any questions regarding the application, he is respectfully urged to contact Applicant's attorney at (650) 474-8400.

Respectfully submitted,

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